

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

EMMANUEL ASHEMUKE,

Petitioner,

v.

ICE FIELD OFFICE DIRECTOR,

Respondent.

Case No. C23-1592-RSL

ORDER GRANTING IN PART
FEDERAL HABEAS PETITION


This matter comes before the Court on the Report and Recommendation of the Honorable Michelle L. Peterson, United States Magistrate Judge, petitioner's objections thereto,¹ and the remaining record. Petitioner seeks immediate release from ICE detention or a bond hearing, arguing that his prolonged detention without an individualized finding that he, in fact, poses a risk of flight or danger to the community violates his due process rights. Although there is no authority supporting the idea that petitioner is entitled to an order of release, he has shown that his continuing detention without an individualized bond hearing is unreasonable.

¹ On April 3, 2024, petitioner filed a "Motion to Amend Habeas Petition" which, despite its title, merely supplements his objections to the Report and Recommendation. The Court has considered both Dkt. # 26 and # 28.

1 The Court has considered the eight factors set forth in *Martinez v. Clark*, 2019 WL
 2 5968089, at *9 (W.D. Wash. May 23, 2019), *report and recommendation adopted*, 2019 WL
 3 5962685 (W.D. Wash. Nov. 13, 2019),² and finds that factors 1, 5, and 7 favor petitioner, factors
 4 3 and 4 favor the government, and factors 2, 6, and 8 are neutral. Because the factors suggesting
 5 that continued detention without a bond hearing is unreasonable outnumber and collectively
 6 carry more weight than the factors that favor the government, petition's request for a bond
 7 hearing is GRANTED. The government shall, within 30 days of the date of this Order, provide
 8 petitioner with a bond hearing before an immigration judge that comports with the procedural
 9 requirements of *Singh v. Holder*, 638 F.3d 1196 (9th Cir. 2011).³

10 The Clerk of Court is directed to send copies of this Order to petitioner, to counsel for the
 11 government, and to the Honorable Michelle L. Peterson.

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 13 Dated this 18th day of April, 2024.

14 
 15 ROBERT S. LASNIK
 16 United States District Judge
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19 ² The factors are: (1) the total length of detention to date; (2) the likely duration of future detention including
 20 administrative and judicial appeals; (3) whether the detention will exceed the time petitioner spent in prison for the
 21 crime that made him removable; (4) the nature of the crimes that petitioner committed; (5) the conditions of
 22 detention (the more they resemble penal confinement, the less reasonable detention is); (6) delays in the removal
 23 proceedings caused by petitioner (he's allowed to object to removal, so the issue is really obstruction); (7) delays in
 the removal proceedings caused by the government; and (8) the likelihood that the removal proceedings will result
 in a final order of removal.

³ The petition for writ of habeas corpus (Dkt. # 7) is DENIED as to all other relief requested. The government's
 motion to dismiss (Dkt. # 18) is similarly GRANTED in part and DENIED in part.